

[Floor Situation](#) | [Summary](#) | [Background](#) | [Cost](#) | [Staff Contact](#)

H.R. 1314, the Trade Act of 2015

FLOOR SITUATION

On Friday, June 12, 2015, the House will consider the Senate Amendment to [H.R. 1314](#), *the Trade Act of 2015*, under a [rule](#). The Senate replaced the text of the previously passed House bill (*the Ensuring Tax Exempt Organizations the Right to Appeal Act*) with its current language and approved the amended version of H.R. 1314 by a vote of [62 to 37](#) on May 22, 2015.

SUMMARY

H.R. 1314 establishes procedures to enhance Congressional authorities in shaping and implementing trade agreements. The legislation establishes Congressional trade negotiating objectives, enhances consultation requirements and information sharing with Congress before, during, and after trade negotiations, and provides the rules for Congressional consideration of trade agreements and their implementing bills. The bill also reauthorizes Trade Adjustment Assistance, which is a program that provides federal assistance to dislocated workers, farmers, and firms that have been adversely affected by international trade.

Major provisions of the bill as follows:

Title I—Trade Promotion Authority

Trade Agreement Authority—the bill provides the President authority to enter into trade agreements with foreign countries to modify duties or other import restrictions that unduly burden the United States.

Trade Negotiating Objectives—the bill establishes overall trade negotiating objectives of the United States for trade agreements to expand opportunities for U.S. exports and obtain fairer and more open conditions of trade. Some of the major negotiating objectives include:

- Trade in goods - expand opportunities for U.S. exports and obtain fairer and more open conditions of trade, including through utilization of global value chains.

- Trade in services - expand opportunities for U.S. services and obtain fairer and more open conditions of trade, including through utilization of global value chains.
- Trade in Agriculture - to obtain competitive market access opportunities for U.S. agricultural exports substantially equivalent to opportunities afforded foreign exports in U.S. markets and to achieve fairer and more open conditions of trade.
- Foreign Investment – reduce barriers to foreign investment, while ensuring that foreign investors in the U.S. are not accorded greater substantive rights than U.S. investors in the U.S., and secure for U.S. investors rights comparable to those available in the United States.
- Intellectual Property – further promote adequate and effective protection for intellectual property rights through ensuring full implementation of the WTO Agreement on Trade-Related Aspects of Intellectual Property and ensuring that provisions of any trade agreement governing intellectual property rights reflect a standard of protection similar to that found in U.S. law.
- State-Owned and State-Controlled Enterprises - seek commitments that eliminate or prevent trade distortions and unfair competition favoring state-owned enterprises to the extent of their engagement in commercial activity and ensure that such engagement is based solely on commercial considerations.
- Currency – avoid manipulating exchange rates in order to prevent effective balance of payments adjustment or to gain an unfair competitive advantage over other parties to the agreement, such as through cooperative mechanisms, enforceable rules, reporting, monitoring, transparency, or other means, as appropriate.
- Foreign Currency Manipulation - seek to establish accountability through enforceable rules, transparency, reporting, monitoring, cooperative mechanisms, or other means to address exchange rate manipulation involving protracted large scale intervention in one direction in the exchange markets and a persistently undervalued foreign exchange rate to gain an unfair competitive advantage in trade over other parties to a trade agreement.
- WTO and Multilateral Trade Agreements - to achieve full implementation and extend the coverage of WTO multilateral and plurilateral agreements, including expansion and enhancement of the Information Technology Agreement, the Government Procurement Agreement, and other WTO plurilateral agreements.
- Trade Institution Transparency - seek improved transparency in the WTO, in institutions established through other trade agreements, and in other international trade fora.
- Anti-Corruption - obtain high standards and effective domestic enforcement mechanisms that prohibit attempts to use money or other things of value to influence acts, decisions, or omissions of foreign governments.
- Trade Remedy Laws - preserve the ability to rigorously enforce U.S. trade laws, including antidumping, countervailing duty, and safeguard laws.
- Religious Freedom - directs the Administration to take into account conditions relating to religious freedom of any party to a trade negotiation.

Congressional Oversight, Consultation, and Access to Information—the bill requires, in the course of trade negotiations, that that United States Trade Representative (USTR) shall: meet upon request with any Member of Congress; provide access to pertinent documents, including classified materials; and engage in close and timely consultation with all committees of the House and the Senate with jurisdiction over laws that could be affected by a trade agreement. Prior to entry into force of a trade agreement, USTR must keep Congress apprised of measures a trading partner has taken to comply with provisions that will take effect on the date the agreement enters into force.

The bill allows any Member of Congress, who wishes to participate, to be designated as Congressional Advisers on Trade Policy and Negotiations. The USTR will be required to consult

closely and on a timely basis with these Congressional Advisors during the course of trade negotiations. The bill also establishes House and Senate Advisory Groups on Negotiations, sets forth membership requirements for each, and requires that the USTR to consult with and seek advice from the Advisory Groups.

The bill requires the USTR, in consultation with the Chairs and Ranking Members of the Senate Finance Committee and the House Ways and Means Committee, to develop written guidelines on enhanced coordination with Congress, Congressional Advisory Groups, and the public. The bill establishes a Chief Transparency Officer at the USTR to be responsible for consulting with Congress and coordinating transparency policy.

Congressional Notice Requirements and Timeline—the bill stipulates certain timeline requirements in order for a trade agreement to be considered under expedited consideration mechanisms provided in the bill. In order to qualify for TPA consideration, the President must abide by the following timeline:

- Notification 90 days prior to beginning trade negotiations
- At least 60 days before entering into the agreement, the President must publish the text of the agreement on the USTR website
- 60 days prior to signing, release of the agreement text and submission of Advisory Committee reports
- 60 days after agreement is signed, release a list of required changes in law is due
- At least 30 days before formally submitting the trade agreement to Congress, the President must provide to Congress a copy of the final legal text of the agreement and a draft statement of administrative action proposed to implement the agreement

After an implementing bill has been introduced in the House and Senate, the bodies must vote on the bill within 90 days and may consider the bill concurrently to expedite the process.

Limitation on Procedures with Countries not in Compliance with certain Human Trafficking standards—trade authority procedures do not apply to any country in which the minimum standards for the elimination of trafficking are applicable and the government of which does not fully comply with such standards and is not making significant efforts to bring the country into compliance (commonly referred to as a “tier 3” country), as determined in the most recent annual report on trafficking in persons submitted under section 110(b)(1) of the Trafficking Victims Protection Act of 2000.

Treatment of Certain Trade Agreements for Which Negotiations Have Already Begun—concerns the applicability of trade authorities procedures to implementing bills for certain trade negotiations commenced prior to enactment of this Act. For those agreements the bill allows an exception only to the initial 90-day notification prior to initiation of negotiations provided those specific procedures are followed.

Sovereignty—stipulates that the application of any provision of a trade agreement that is inconsistent with U.S. law shall have no effect; that no provision of a trade agreement entered into shall prevent the United States from amending or modifying its laws; and that reports issued by dispute settlement panels will have no binding effect under U.S. law.

Procedures for disapproval of the use of trade authorities procedures—the bill contains a procedural disapproval resolution process by which both chambers of Congress, acting jointly, may

withdraw trade authorities procedures on an expedited basis. Each chamber of Congress may unilaterally withdraw trade authorities procedures for that chamber.

Authorization period for Title I—the bill authorizes presidential trade negotiating authority, as prescribed by the bill, until July 1, 2018. Such authority may be extended until July 1, 2021, if the President submits a request for such an extension and neither the House nor Senate adopts an extension disapproval resolution.¹

Title II—Trade Adjustment Assistance (TAA)

The bill reauthorizes Trade Adjustment Assistance for workers, farmers, and firms, as provided in the Trade Act of 1974, with certain changes, until June 30, 2021. The bill further provides for the reporting of certain performance and accountability measures to evaluate the successfulness of TAA programs. In general, TAA is a program that provides federal assistance to dislocated workers, farmers, and firms that have been adversely affected by international trade. The bill provides certain budget offsets to ensure the legislation does not increase the deficit or debt, or raise taxes.

The bill makes changes to previous TAA authorizations, some of which are below:

- Several underperforming programs are not authorized or have been cut from 2009 levels or converted from entitlement to discretionary spending.
- Does not reauthorize TAA for Community Colleges program, which was funded through the Affordable Care Act reconciliation legislation at \$500 million per year.
- States are given increased latitude in determining the most appropriate training and work supports for TAA recipients, given local employment needs.
- Funding for administration and services other than benefit checks is consolidated and reduced by 22 percent (from \$575 million per year under 2009 and 2011 legislation, to \$450 million per year under this agreement). Additionally, administrative funding is capped at no more than 10 percent (down from 15 percent).
- Certain other process improvements to prioritize direct services for participants over administrative spending.
- Performance goals under the bill are aligned with other job-training programs.
- Public-sector workers are not covered under the agreement.

Extension of the Health Coverage Tax Credit (HCTC), with reforms—the legislation retroactively extends the Health Coverage Tax Credit (HCTC), from 2014 through 2019, at 72.5 percent. The HCTC is also modified to prohibit individuals from claiming the HCTC and certain other premium subsidies for the same coverage period, and to prevent use of the HCTC to purchase insurance through an Affordable Care Act Exchange.

Budget Offsets—the bill provides the following provisions to ensure that legislation does not increase the deficit or debt, or increase taxes:

- A temporary extension of the 2011 increase in the Merchandise Processing Fee (from 0.21% to 0.34% of import value) paid on products from countries with which the United States does not have a free trade agreement. The purpose of this fee is to offset the costs incurred by U.S.

¹ See [19 U.S.C. 2192](#) for more information on resolutions disapproving such measures.

Customs and Border Protection (CBP) for the inspection and processing of merchandise that is formally entered or released.

- A temporary extension of the COBRA (Consolidated Omnibus Budget Reconciliation Act) fee, which is used to ensure all carriers and passengers entering the United States are compliant with U.S. Customs laws.
- A short acceleration of corporate estimated tax payments.
- Conforms the rules for the Additional Child Tax Credit (ACTC) -- *i.e.*, the refundable portion of the child credit -- with the rules for the Earned Income Tax Credit (EITC) by denying the ACTC to taxpayers who elect the Foreign Earned Income Exclusion (FEIE). This provision prevents taxpayers earning six-figure incomes and who have no tax liability from receiving a check from the government for the ACTC because they appear to have low earned income.
- Allows Medicare beneficiaries with acute kidney infection to receive short-term scheduled dialysis at a Medicare-certified End Stage Renal Disease facility, and mirrors a proposal that was contained in the President's FY2016 Budget. It provides savings without disrupting the level of care provided to patients.
- The provision that modifies the sequester on Medicare mandatory spending, which is contained within the text of this bill, was repealed in the House amendment to Senate amendments to [H.R. 1295](#), the Trade Preferences Extension Act of 2015, which passed the House by a vote of [397 to 32](#) on June 11, 2015. Other provisions of the bill offset the cost of eliminating the Medicare sequester to ensure the bill does not increase the deficit or violate the House's cut-as-you-go rule.

BACKGROUND

International trade is a critical component of the U.S. economy, with U.S. merchandise imports amounting to \$2.4 trillion and exports to \$1.6 trillion in 2014. Approximately 96 percent of the world's consumer's reside outside of the United States.² H.R. 1314 attempts to foster a conducive environment for increasing international trade to grow the U.S. economy, by providing a framework for negotiating trade agreements and providing relief for individuals and firms adversely affected by trade agreements.

Trade Promotion Authority (TPA) — is an authority that Congress grants to the President when negotiating trade agreements that sets certain objectives and procedures for him or her to follow in order for a trade agreement to be given consideration under a certain timeline, without amendment, in the Congress. “More generally, TPA defines how Congress has chosen to exercise its constitutional authority over a particular aspect of trade policy, while affording the President added leverage to negotiate trade agreements by giving trading partners assurance that final agreements can receive consideration by Congress in a timely manner and without amendments.” Trade promotion authority was first enacted on January 1, 1975, and since 1979, has been used for 14 bilateral/regional free trade agreements.³

“The current effort to reauthorize TPA has been motivated, in part, by the engagement of the United States in three sets of trade negotiations: the proposed Trans-Pacific Partnership (TPP) agreement with 11 other countries; the proposed Transatlantic Trade and Investment Partnership (T-TIP) agreement with the 28-member European Union (EU); and the proposed Trade in Services Agreement (TISA) with 22 other trading partners, including the EU. The Obama Administration has

² https://www.sba.gov/sites/default/files/articles/US_SBA_WorldOp.pdf

³ See CRS Report, [“Trade Promotion Authority \(TPA\): Frequently Asked Questions.”](#) May 28, 2015, at 1 and 3.

fulfilled the notification and consultation requirements under the most recent TPA for each of these sets of negotiations in anticipation that it would be renewed. Some trade partners have suggested that the lack of TPA has slowed progress in the negotiations on the TPP, and without the assurance of TPA, they are reluctant to agree to commitments on more sensitive issues.”⁴

Trade Adjustment Assistance (TAA)—is a program that provides federal assistance to dislocated workers, farmers, and firms that have been adversely affected by international trade. TAA has routinely been reauthorized alongside trade legislation and was last reauthorized in 2011.

Trade Adjustment Assistance for Workers—is a program that provides federal assistance to dislocated workers who have been adversely affected by international trade. Its primary benefits are funding for retraining and weekly income support payments only if affected workers are enrolled in retraining programs. In order to receive benefits, a group of workers must apply to the Department of Labor (DOL) proving that, among other things, international trade “contributed importantly” to their job loss.

TAA for Workers authorizes funding for several training programs for workers adversely affected by trade, though the most common is occupational training. The code stipulates that funding can only be made available for such programs if there is reasonable expectation of employment following completion of the training.

Workers who have met the aforementioned DOL requirements and have also exhausted their regular unemployment insurance (UI) benefits are eligible to receive a Trade Readjustment Allowance (TRA), or a weekly payment equal to the workers last UI payment. Workers are eligible to receive either TRA or UI benefits for the duration of their training program or up to a combined maximum of 117 weeks, with up to an additional 13 weeks available only if a worker can show a need for additional training and a worker has “substantially met the benchmarks” of the training program. In FY 2013, 71 percent of participants entered employment in the first quarter after exiting the program.⁵

TAA for Workers was set to be phased out beginning January 1, 2015, but H.R. 83, the Consolidated and Further Continuing Appropriations Act, 2015⁶ provided \$711 million in funding for the full operation of the program through FY 2015.⁷ Congress last reauthorized the program in 2011, aligned with the passage of free trade agreements with Columbia, Panama, and South Korea.⁸

Trade Adjustment Insurance for Farmers—is a discretionary program designed to provide technical assistance and payments to trade-affected agricultural producers. “To be certified, a group must show that imports were a significant cause for at least a 15 percent decline in one of three factors: the price of the commodity, the quantity of the commodity produced, or the production value of the commodity. . . From 2009 to 2011, the United States Department of Agriculture (USDA) certified 10 of 30 petitions filed by producers of five commodity groups—shrimp, catfish, asparagus, lobster, and wild blueberries. The USDA approved TAA for Farmers benefits for about 4,500 individual producers in FY 2010, and for about 5,700 producers in FY2011.”⁹ The programs last received funding in the first quarter of FY 2011.

⁴ Id. at 4.

⁵ See CRS Report [“Trade Adjustment Assistance for Workers,”](#) January 27, 2015, at 2.

⁶ See [Public Law 113-235](#) at 325.

⁷ <http://www.doleta.gov/tradeact/>

⁸ See CRS Report [“Trade Adjustment Assistance for Workers,”](#) January 27, 2015, at 1.

⁹ See CRS Report [“Trade Adjustment Assistance for Farmers,”](#) December 15, 2014, at 1.

Trade Adjustment Assistance for Firms—is a discretionary program designed to help workers and firms adjust to import competition and dislocation caused by trade agreements. The program provides technical assistance, on a cost-sharing basis, to help eligible businesses create and implement targeted business recovery. The TAA for Firms received \$12.5 million in funding in FY 2015.¹⁰

Overall, H.R. 1314 is similar to H.R. 1890, which was ordered reported by the Committee on Ways and Means on April 23, 2015. H.R. 1314 is different from H.R. 1890 in that it includes additional trade negotiation objectives relating to foreign currency manipulation, religious freedom, and human trafficking, and in addition, provisions regarding to TAA.

According to Chairman Ryan, “[What] we’re trying to do . . . is make sure that Congress is involved in the front end, so we determine what is in a trade agreement or what is not. We make sure that we have access to all the negotiating documents—which is not the case right now during this process—and then, when there is an agreement, that it’s made public for 60 days so that the public can see what’s in an agreement. And then Congress makes a determination as to whether or not we want to accept or disapprove of a trade agreement . . . We think this is a good way of containing the executive branch and making sure that we can advance the cause of opening markets and creating jobs. This is really all about getting economic growth and jobs, but doing it the right way, to adhere to the Constitution.”¹¹

COST

The Congressional Budget Office (CBO) and the Joint Committee on Taxation estimate that enacting H.R. 1314 will reduce the deficit by \$88 million over the 2015 to 2025 period.

STAFF CONTACT

For questions or further information please contact [John Huston](#) with the House Republican Policy Committee by email or at 6-5539.

¹⁰ See CRS Report [“Trade Adjustment Assistance for Firms.”](#) January 30, 2015 at 1.

¹¹ <http://waysandmeans.house.gov/ryan-with-tpa-it-has-to-be-done-on-our-terms/>